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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,252

03/12/2004

Craig J. Schroeder

L111.12-0102

8199

27367 7590 03/17/2008  
WESTMAN CHAMPLIN & KELLY, P.A.  
SUITE 1400  
900 SECOND AVENUE SOUTH  
MINNEAPOLIS, MN 55402-3319

EXAMINER

WONG, LESLIE A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,252	<b>Applicant(s)</b> SCHROEDER, CRAIG J.	
	<b>Examiner</b> Leslie Wong	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 19-34 and 41-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 19-34, and 41-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 4, 2008 has been entered.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 19-34, and 41-61 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Blazey et al (US 6177118) for the reasons set forth in rejecting the claims in the last office action.

Blazey et al teach a method of making a cheese base and cheese comprising mixing milk or a milk derivative with citric acid to a pH of about 5.0 to 6.8 and ultrafiltering the treated milk (see entire document). Blazey et al also teach the addition

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of emulsifying salts and that the pH adjustment occurs without precipitation (see column 6, lines 56-63).

The claims differ as to the specific recitation of chelation.

Chelation is inherent and/or obvious to that of Blazey et al as the same components and process steps are used.

Applicant's arguments filed February 1, 2008 have been fully considered but they are not persuasive.

Applicant argues that Blazey et al teach acid addition after ultrafiltration and holding quiescently for a period of time.

Blazey et al teach the addition of citric acid (see column 6, lines 56-63). It is not clear where in the cited lines that Blazey et al teach addition after ultrafiltration. Blazey et al teach "(o)ther preferred ingredient include organic and inorganic acids, especially citric acid or lactic acid, for adjusting the pH of the composition without precipitating, aggregating, coagulating, or gelling the proteins; sodium chloride and, optionally, emulsifying salts used in process cheese manufacture, especially sodium citrate or sodium phosphate." Blazey et al does not teach addition of citric acid after ultrafiltration.

Blazey et al teach a method of making a cheese base and cheese comprising mixing milk or a milk derivative with citric acid to a pH of about 5.0 to 6.8 and ultrafiltering the treated milk (see entire document). Blazey et al also teach the addition of emulsifying salts and that the pH adjustment occurs without precipitation as is claimed (see column 6, lines 56-63). Applicant refers to Example 1. Example 1

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teaches pH adjustment and then an additional step of quiescently holding, wherein the acidified milk is held. Applicant does not exclude the additional holding step of Blazey et al.

Chelation is inherent and/or obvious to that of Blazey et al as the same components and process steps are used.

The declaration under 37 CFR 1.132 filed February 1, 2008 is insufficient to overcome the rejection of the claims based upon Blazey et al as set forth in the last Office action for the following reasons.

- 1) The declaration does not specifically compare to the art relied upon.
- 2) Blazey et al is cited to teach citric acid addition.
- 3) There is no support for Applicant's conclusions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is 571-272-1411. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie Wong/  
Primary Examiner, Art Unit 1794

LAW  
March 10, 2008